

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Paul Baron	Team: Team # 4	CCRB Case #: 200907387	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/08/2009 8:48 PM	Location of Incident: Creston Avenue and East Kingsbridge Road	Precinct: 52	18 Mo. SOL 11/8/2010	EO SOL 11/8/2010	
Date/Time CV Reported Fri, 05/08/2009 11:49 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/13/2009 1:35 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Paul White	25819	947872	052 PCT
2. POM John Moise	29985	946014	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Edward Mangan	00000	917917	052 PCT
2. POM Matthew Falso	13740	941729	052 PCT
3. POF Michele Capizzuto	24427	941496	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Paul White	Force: PO Paul White used physical force against § 87(2)(b)	
B.POM John Moise	Force: PO John Moise used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) filed a complaint by telephone with IAB on May 8, 2009, and the complaint was forwarded by IAB to the CCRB on May 13, 2009 (enc. 4). On May 8, 2009, at approximately 8:48 PM, § 87(2)(b) was arrested by PO Paul White and PO John Moise near the intersection of East Kingsbridge Road and Creston Avenue, in the Bronx. The following allegations resulted from the officers' actions:

- **Allegation A- Force:** PO Paul White used physical force against § 87(2)(b)
- **Allegation B- Force:** PO John Moise used physical force against § 87(2)(b)

§ 87(2)(g)

Results of Investigation

Civilian Statement(s)

Complainant/Victim: § 87(2)(b) (encl. 6)

- § 87(2)(b) -years-old, Hispanic male, 5'4", 150 pounds, brown hair, hazel eyes.

§ 87(2)(b) was interviewed at the CCRB on July 6, 2009. At approximately 8:48PM on May 8, 2009, he was in the vicinity of Creston Avenue and East Kingsbridge Road, in the Bronx, with his wife, § 87(2)(b) and four children: § 87(2)(b) (§ 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) had been arguing and § 87(2)(b) decided he was going to leave and meet up with his friends. § 87(2)(b) did not want § 87(2)(b) to leave and she held on to his jacket, stating "Don't go." The #9 bus drove by and § 87(2)(b) ran after the bus, leaving his family on the corner of Creston Avenue and East Kingsbridge Road.

§ 87(2)(b) ran around the corner onto East Kingsbridge Road toward the #9 bus stop. While running, PO1 (m/h, 6'0", muscular build, 180 lbs, uniform, hat, no glasses, clean shaven), grabbed § 87(2)(b)'s right arm around his wrist. PO1, still holding § 87(2)(b)'s forearm, pushed § 87(2)(b) against a metal fence. § 87(2)(b) lost his balance and stumbled slightly, causing the right side of his body to make contact with the fence. § 87(2)(b) looked behind him and observed approximately five uniformed police officers, three of whom who held § 87(2)(b) chest first against the fence. The right side of his face made contact with the fence. The three officers pushed § 87(2)(b)'s body against the fence three times. On the second push, § 87(2)(b) sustained a laceration to his face just above his right eyebrow. § 87(2)(b)'s family stood approximately three feet away from him and the officers. § 87(2)(b) was handcuffed.

When the officers pushed him against the fence, it caused the screen on his cell phone, which had attached to a clip on his waist, to break. § 87(2)(b) was placed in a van and taken to the 52nd Precinct. He was subsequently taken to § 87(2)(b) and received six stitches. § 87(2)(b) returned to the stationhouse before being processed as an arrest.

Attempts to Contact Civilians (encl. 20-21)

- § 87(2)(b) stated on July 20, 2009, that she did not want to provide a statement and would not allow her three children to provide a statement to the CCRB. Two letters and three messages were also left for § 87(2)(b) and § 87(2)(b) who did not provide statements to the CCRB. It was eventually determined that witness statements would not change the disposition of the allegations; as such, attempts to contact the witnesses were suspended.

NYPD Statement(s):

Subject Officer: PO JOHN MOISE (encl. 9)

- § 87(2)(b) -year-old black male, 6', 175 pounds, black hair, brown eyes
- Bronx Impact Response Team; within 52nd Precinct; 5:30 PM on May 8, 2009, to 2:05 AM on May 9, 2009, with PO White, in uniform, foot post

Subject Officer: PO PAUL WHITE (encl. 8)

- § 87(2)(b) -year-old white male, 5'7", 170 pounds, brown hair, hazel eyes
- Bronx Impact Response Team; within 52nd Precinct; 5:30 PM on May 8, 2009, to 2:05 AM on May 9, 2009, with PO Moise, in uniform, foot post

PO Moise and PO White Memo Book Entries

At 8:25 PM, officers picked up a dispute opposite of 2641 Creston Avenue, between an intoxicated male and apparently normal female. Upon approach by officers, the intoxicated male fled northbound on Creston Avenue and then turned eastbound on East Kingsbridge Road. When suspect was apprehended, suspect wailed his arms, cursed, and resisted arrest. Suspect suffered small laceration above right eye from chain link fence.

CCRB Statements

PO John Moise was interviewed by the CCRB on December 17, 2009. PO Paul White was interviewed on November 25, 2009. § 87(2)(g) On May 8, 2009 at approximately 8:30 PM, PO White, PO Moise, Lt. Mangan and PO Capizzuto were standing near the intersection of Creston Avenue and East 193rd Street. A civilian approached them and told them that a man and a woman were fighting at the intersection of Creston Avenue and East Kingsbridge Road. The officers approached the incident location and observed § 87(2)(b) pulling and grabbing a female complainant. PO White heard the female yelling for § 87(2)(b) to get off of her. § 87(2)(b) observed the officers approaching him and fled in the opposite direction. PO Moise and PO White pursued § 87(2)(b) on foot. Lt. Mangan and PO Capizzuto did participate in the foot pursuit; they remained with the female complainant. PO Moise and PO White had observed § 87(2)(b) drinking outside about an hour prior to this interaction, but had decided not to issue § 87(2)(b) a summons and just told him to pour out the alcohol.

PO Moise and PO White caught up with § 87(2)(b) on East Kingsbridge Road, out of view of Lt. Mangan and PO Capizzuto. PO White first grabbed § 87(2)(b) followed soon after by PO Moise. The officers grabbed both of § 87(2)(b)'s arms, which he repeatedly tried to pull away from the officers and placed him chest first against a fence. § 87(2)(b)'s face was against the fence while he moved his torso back and forth, struggling with the officers. § 87(2)(b) was belligerent and smelled of alcohol. PO Moise and PO White rear handcuffed § 87(2)(b) without assistance from any other officers. When they turned § 87(2)(b) around, the officers observed a laceration above § 87(2)(b)'s eye. Neither officer observed the laceration before § 87(2)(b) was placed against the fence. § 87(2)(b) was brought to the stationhouse and PO Falso took the arrest.

Medical Records (encl. 10)

§ 87(2)(b) Report

- § 87(2)(b) received a laceration to his right eyebrow while being restrained by the NYPD.
- § 87(2)(b) received sutures on the laceration before it was bandaged.

NYPD Documents (encl. 14-16)

Complaint Report/Arrest Report/Domestic Incident Report

- § 87(2)(a) 160.50 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Physical force was used by the officers, to restrain § 87(2)(b)
PO Falso was arresting officer. § 87(2)(b) refused to be photographed

Arrest for Incident and Disposition (encl. 18)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]

Status of Civil Proceedings (enc. 19)

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming false arrest, false imprisonment, assault causing six stitches to his forehead, shoulder pain and other injuries. The claim did not indicate what § 87(2)(b) was seeking as redress. A 50-H hearing was scheduled for § 87(2)(b); however there is no 50-H testimony or any other information on record with the comptroller's office as of January 11, 2010 (**enc. 20**).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]

Civilian(s) CCRB History (encl. 3)

- This is the first CCRB complaint filed by § 87(2)(b)

Subject Officer(s) CCRB History (encl. 2)

- PO White has been a member of the service for one year and there are no substantiated CCRB allegations against him. PO Moise has been a member of the service for two years and there are no substantiated CCRB allegations against him.

Conclusion

Identification of Subject Officer(s)

PO White and PO Moise confirmed having a physical interaction with § 87(2)(b)

Allegations Not Pled

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Investigative Findings and Recommendations

Allegation A- Force: PO Paul White used physical force against § 87(2)(b)

Allegation B- Force: PO John Moise used physical force against § 87(2)(b)

It is undisputed that as § 87(2)(b) was running, PO White and PO Moise grabbed him and pushed him into a fence. § 87(2)(b)'s face hit the fence, causing a laceration above his right eye. § 87(2)(b) said he was running to catch a bus after having an argument with § 87(2)(b). However, both officers alleged that they observed § 87(2)(b) grab on to § 87(2)(b) and then run away. The arrest paperwork and § 87(2)(b) statement in the Domestic Incident Report

confirmed the officers' statements. The officers stated that when they approached § 87(2)(b) he fled from them. § 87(2)(g)

Patrol Guide Procedure 203-11 (**enc. 1**) states that when affecting an arrest, officers should use the minimum necessary force. § 87(2)(g)

Team: _____

:

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date